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**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEY**

In re:

BLOCKFI INC., *et al.*,

Debtors.<sup>1</sup>

Chapter 11

Case No. 22-19361 (MBK)

(Jointly Administered)

**THIRD SUPPLEMENTAL  
DECLARATION OF JOSHUA A. SUSSBERG  
IN SUPPORT OF THE DEBTORS' APPLICATION FOR  
ENTRY OF AN ORDER AUTHORIZING THE RETENTION AND  
EMPLOYMENT OF KIRKLAND & ELLIS LLP AND KIRKLAND &  
ELLIS INTERNATIONAL LLP AS ATTORNEYS FOR THE DEBTORS  
AND DEBTORS IN POSSESSION EFFECTIVE AS OF NOVEMBER 28, 2022**

I, Joshua A. Sussberg, being duly sworn, state the following under penalty of perjury:

<sup>1</sup> The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor's federal tax identification number, are: BlockFi Inc. (0015); BlockFi Trading LLC (2487); BlockFi Lending LLC (5017); BlockFi Wallet LLC (3231); BlockFi Ventures LLC (9937); BlockFi International Ltd. (N/A); BlockFi Investment Products LLC (2422); BlockFi Services, Inc. (5965); and BlockFi Lending II LLC (0154). The location of the Debtors' service address is 201 Montgomery Street, Suite 263, Jersey City, NJ 07302.

1. I am the president of Joshua A. Sussberg, P.C., a partner of the law firm of Kirkland & Ellis LLP, located at 601 Lexington Avenue, New York, New York 10022, and a partner of Kirkland & Ellis International, LLP (together with Kirkland & Ellis LLP, collectively, “Kirkland”). I am one of the lead attorneys from Kirkland working on the above captioned Chapter 11 Cases. I am a member in good standing of the Bar of the State of New York, and I have been admitted to practice in the United States Court of Appeals for the Fifth Circuit, the United States District Court for the Northern District of Illinois, and the United States District Court for the Southern District of New York. There are no disciplinary proceedings pending against me.

2. I submit this third supplemental declaration (the “Third Supplemental Declaration”) in further support of the *Debtors’ Application for Entry of an Order Authorizing the Retention and Employment of Kirkland & Ellis LLP and Kirkland & Ellis International LLP as Attorneys for the Debtors and Debtors in Possession Effective as of November 28, 2022* [Docket No. 133] (the “Application”).<sup>2</sup>

### **Background**

3. On November 28, 2022 (the “Petition Date”), each of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) filed a petition with this Court under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”). On December 22, 2022, the Debtors filed the Application pursuant to sections 327(a) and 330 of the Bankruptcy Code, rules 2014(a) and 2016 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and rules 2014-1 and 2016-1 of the Local Bankruptcy Rules for the District of New Jersey

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<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Application or the Prior Declarations (as defined herein), as applicable.

(the “Local Rules”). My original declaration in support of the Application (the “Original Declaration”) was attached to the Application as Exhibit B.

4. On January 31, 2023, the Debtors filed the *Supplemental Declaration of Joshua A. Sussberg in Support of the Debtors’ Application for Entry of an Order Authorizing the Retention and Employment of Kirkland & Ellis LLP and Kirkland & Ellis International LLP as Attorneys for the Debtors and Debtors in Possession Effective as of November 28, 2022* [Docket No. 445] (the “First Supplemental Declaration”) in further support of the Application.

5. On February 1, 2023, the Court entered the *Order Authorizing the Retention and Employment of Kirkland & Ellis LLP and Kirkland & Ellis International LLP as Attorneys for the Debtors and Debtors in Possession Effective as of November 28, 2022* [Docket No. 448] (the “Retention Order”).

6. On February 24, 2023, the Debtors filed the *Second Supplemental Declaration of Joshua A. Sussberg in Support of the Debtors’ Application for Entry of an Order Authorizing the Retention and Employment of Kirkland & Ellis LLP and Kirkland & Ellis International LLP as Attorneys for the Debtors and Debtors in Possession Effective as of November 28, 2022* [Docket No. 556] (the “Second Supplemental Declaration” and together with the Original Declaration and the First Supplemental Declaration, the “Prior Declarations”) in further support of the Application.

7. In connection with the Application, I submit this Third Supplemental Declaration in further support of the Application and to supplement the disclosures set forth in the Prior Declarations in accordance with Bankruptcy Rules 2014(a) and 2016(b). Except as otherwise indicated in this Third Supplemental Declaration, all facts stated in this Third Supplemental Declaration are based upon my personal knowledge of Kirkland’s practices

and Kirkland's representation of the Debtors and information learned from my review of relevant documents and information supplied to me by other parties, including partners or employees of Kirkland. No one individual at Kirkland has personal knowledge of all of the facts set forth in this Third Supplemental Declaration.

**Additional Disclosures**

8. Kirkland has searched its electronic database of representations for connections to parties in interest in these Chapter 11 Cases. Certain connections were disclosed in the Prior Declarations. Since the Petition Date, Kirkland has updated those conflicts searches and has searched additional parties as Kirkland became aware of additional parties in interest in these Chapter 11 Cases. In addition to the entities searched and disclosed in the Prior Declarations, Kirkland searched its electronic database for the entities listed on **Schedule 1(a)–1(f)**, attached hereto. The following is a list of the categories that Kirkland has searched:<sup>3</sup>

<b><u>Schedule</u></b>	<b><u>Category</u></b>
1(a)	Ad Hoc Committee Members
1(b)	Banks
1(c)	Non-Debtor Professionals
1(d)	Notice of Appearance Parties
1(e)	Potential M&A Counterparties
1(f)	Reed Smith Ad Hoc Committee

9. Kirkland's conflicts searches of the entities included in the above-listed categories yielded no results.<sup>4</sup> In addition, Kirkland re-ran searches in its electronic database for the entities

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<sup>3</sup> Kirkland's inclusion of parties in the following schedules is solely to illustrate Kirkland's conflict search process and is not an admission that any party has a valid claim against the Debtors or that any party properly belongs in the schedules or has a claim or legal relationship to the Debtors of the nature described in the schedules.

<sup>4</sup> As referenced in **Schedule 2**, the term "current" means an entity listed as a client in Kirkland's conflicts search system to whom time was posted in the 12 months preceding the Petition Date. As referenced in **Schedule 2**, the term "former" means an entity listed as a client in Kirkland's conflicts search system to whom time was posted between 12 and 36 months preceding the Petition Date. As referenced in **Schedule 2**, the term "closed" means an entity listed as a client in Kirkland's conflicts search system to whom time was posted in the 36 months preceding the Petition Date, but for which the client representation has been closed. Whether an actual client

that were previously reviewed in the Prior Declarations. The results of Kirkland's conflict searches from the entities that were re-run are listed on **Schedule 2**.

10. As disclosed on **Schedule 2**, certain parties in interest in these Chapter 11 Cases are current or former Kirkland clients. All current and prior representations of the parties identified on **Schedule 2** are in matters unrelated to the Debtors and these Chapter 11 Cases, and Kirkland has not represented, nor will Kirkland represent, any of these parties or any of their affiliates in any matter related to these Chapter 11 Cases.

11. Generally, it is Kirkland's policy to disclose entities in the capacity that they first appear in a conflicts search. For example, if an entity already has been disclosed in the Original Declaration in one capacity (*e.g.*, a customer), and the entity appears in a subsequent conflicts search in a different capacity (*e.g.*, a vendor), Kirkland does not disclose the same entity again in supplemental declarations, unless the circumstances are such in the latter capacity that additional disclosure is required.

12. Of the entities listed on **Schedule 2**, none represented more than one percent of Kirkland's fee receipts for the twelve-month period ending on November 30, 2022.

13. Based on the conflicts search conducted to date and described herein, I do not believe these representations preclude Kirkland from being disinterested under the Bankruptcy Code.

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relationship exists can only be determined by reference to the documents governing Kirkland's representation rather than its potential listing in Kirkland's conflicts search system. The list generated from Kirkland's conflicts search system is over-inclusive. As a general matter, Kirkland discloses connections with "former" or "closed" clients for whom time was posted in the last 36 months, but does not disclose connections if time was billed more than 36 months before the Petition Date.

**Unredacted Potential M&A Counterparties**

14. Pursuant to the *Debtors’ Motion for Entry of an Order Authorizing the Debtors to File Under Seal the Names of Certain Confidential Parties in Interest Related to the Debtors’ Professional Retention Applications* [Docket No. 127] (the “Motion to Seal”), and to avoid prejudicing the Debtors’ sale processes, the Debtors redacted the names of “Potential M&A Counterparties” in each of the Prior Declarations. On March 24, 2023, the Bankruptcy Court entered the *Order (I) Approving the Sale of Certain of the Debtors’ Self-Mining Assets Free and Clear of All Claims, Liens, Rights, Interests and Encumbrances, (II) Authorizing the Debtors to Enter Into and Perform Their Obligations Under the Asset Purchase Agreement, and (III) Granting Related Relief* [Docket No. 669] authorizing the sale of certain of the Debtors’ self-mining assets to U.S. Farms & Mining Opportunity Fund LLC (“U.S. Farms”).

15. Upon finalizing the sale to U.S. Farms, and the conclusion of the sale process for the Debtors’ self-mining assets, the Debtors entered into an agreement with the United States Trustee for the District of New Jersey to unredact certain Potential M&A Counterparties that related solely to the self-mining asset sale process (the “Unredacted Potential M&A Counterparties”). **Schedule 1(g)** contains a list of the Unredacted Potential M&A Counterparties. All of the Unredacted Potential M&A Counterparties, with the exception of “Backbone Mining Solutions” and “AP Capital,” have been previously subject to conflict searches and disclosure, and are now being unredacted pursuant to an agreement with the United States Trustee.<sup>5</sup> Conflict searches with regard to Backbone Mining Solutions and AP Capital yielded no results.

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<sup>5</sup> Certain other Potential M&A Counterparties remain redacted pursuant to the Motion to Seal. The Debtors’ sale process for certain of their assets remains ongoing, and disclosure of other Potential M&A Counterparties at this time may prejudice the sale process.

**Second Supplemental Declaration**

16. Of the entities listed on Schedule 2 of the Second Supplemental Declaration, none represented more than one percent of Kirkland's fee receipts for the twelve-month period ending on November 30, 2022.

**Affirmative Statement of Disinterestedness**

17. Based on the conflicts searches conducted to date and described herein, to the best of my knowledge and insofar as I have been able to ascertain, (a) Kirkland is a "disinterested person" within the meaning of section 101(14) of the Bankruptcy Code, as required by section 327(a) of the Bankruptcy Code and does not hold or represent an interest adverse to the Debtors' estates, and (b) Kirkland has no connection to the Debtors, their creditors, or other parties in interest, except as may be disclosed in the Prior Declarations and herein.

*[Remainder of page intentionally left blank]*

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: May 24, 2023

Respectfully submitted,

/s/ Joshua A. Sussberg

Joshua A. Sussberg  
as President of Joshua A. Sussberg, P.C., as  
Partner of Kirkland & Ellis LLP; and as Partner  
of Kirkland & Ellis International LLP



## **SCHEDULE 1**

### **List of Schedules**

<b><u>Schedule</u></b>	<b><u>Category</u></b>
1(a)	Ad Hoc Committee Members
1(b)	Banks
1(c)	Non-Debtor Professionals
1(d)	Notice of Appearance Parties
1(e)	Potential M&A Counterparties
1(f)	Reed Smith Ad Hoc Committee
1(g)	Unredacted Potential M&A Counterparties

**SCHEDULE 1(a)**

**Ad Hoc Committee Members**

[Confidential]

## **SCHEDULE 1(b)**

### **Banks**

First Citizens Bank  
Peapack-Gladstone Bank  
Webster Bank

## **SCHEDULE 1(c)**

### **Non-Debtor Professionals**

Ansell Grimm & Aaron PC

Stevens & Lee PC

Straffi, Daniel E., Jr., Esq.

Wolf, Rifkin, Shapiro, Schulman & Rabkin LLP

## **SCHEDULE 1(d)**

### **Notice of Appearance Parties**

Teixeira, Rui Pedro Vaz dos Santos  
Towards Equilibrium LLC  
[Confidential]

## **SCHEDULE 1(e)**

### **Potential M&A Counterparties**

[Confidential]

**SCHEDULE 1(f)**

**Reed Smith Ad Hoc Committee**

BCF 2020 Investments LLC  
BMB 2020 Investments LLC  
FP Equity Investments LLC  
[Confidential]

## **SCHEDULE 1(g)**

### **Unredacted Potential M&A Counterparties**

AP Capital	Vistra Group
Apollo Global Management Inc.	
Ares Management Corp.	
Aspen Creek Digital Corp.	
Atlas Technology Group LLC	
Backbone Mining Solutions	
Bain Capital LP	
Baupost Group LLC, The	
Binance US	
Binance.com	
Bitdeer	
BlackRock Inc.	
Blackstone Inc.	
Blue Owl Capital Inc.	
Brevan Howard	
Brigade Capital	
Castlelake	
Centerbridge	
Cerberus Capital Management	
Chicago Atlantic Group LLC	
D.E. Shaw	
Davidson Kempner	
Disrupt Ventures LLC	
Elliott Investment Management	
EQT	
Fortress Investment Group	
Global X Management Co. LLC	
GoldenTree Asset Management LP	
Hudson Bay Capital Management LP	
KKR & Co. Inc.	
KryptoVault	
Luxor Technologies Inc.	
Magnetar Capital LLC	
Marathon Digital Holdings Inc.	
MaxBoring LLC	
Merkle Standard	
Morgan Stanley	
Oak Hill Capital Management LLC	
Oaktree	
Redwood Capital Management LLC	
Silver Point Capital LP	
Sixth Street	
SkyBridge Capital	
Temasek	
Thoma Bravo LP	
Thomas H. Lee Partners LP	
US Farms & Mining Inc.	



## SCHEDULE 2

Name of Entity Searched	Name of Entity and/or Affiliate of Entity, that is a K&E Client	Status
ACE American Insurance Co. Westchester Surplus Lines Insurance Co.	Chubb Bermuda Insurance Ltd.	Current
Bain Capital Venture Coinvestment Fund II LP Bain Capital Venture Fund 2021 LP Bain Capital Ventures  BCIP Venture Associates II LP BCIP Venture Associates II-B LP BCIP Ventures Associates II LP BCIP Ventures Associates II-B LP BCV 2019-MD Coinvestment II LP BCV 21 Innovators Fund LP	Bain Capital Tech Opportunities LP	Current
Berkshire Hathaway Specialty Insurance	Brilliant National Services, Inc.	Current
JAMF Software	Adrian R. Alonso Cheryl Cecchini Leahy	Current Current
Morgan Creek Blockchain Opportunities Fund II LP Morgan Creek Blockchain Opportunities Fund LP Morgan Creek Consumer Opportunities Fund LP Morgan Creek Digital Fund III LP Morgan Creek Private Opportunitis Fund LLC Serieis H - BlockFi Morgan Creek Private Opportunities LLC Series K - BlockFI	Canyon Creek Energy	Closed
Paxos	Bruntal SA Lomami Intermediacao Ltda. Molopo S de RL de CV Paxos Canada Inc. Paxos Global Pte. Ltd. Paxos Holdings LLC Paxos National Trust Paxos Securities Settlement Co. LLC	Current Current Current Current Current Current Current

Name of Entity Searched	Name of Entity and/or Affiliate of Entity, that is a K&E Client	Status
	Paxos Services Ltd. Paxos Technology Ltd. Paxos Technology Solutions LLC Paxos Trust Company LLC	Current Current Current Current
Tiger Global Tiger Global Management LLC Tiger Global PIP 14-7 LLC	Tiger Global Management, LLC	Current
Utah, State of, Attorney General Utah, State of, Labor Commission Utah, State of, Department of Revenue	Utah Solicitor General	Current
[Confidential]	[Confidential]	[Confidential]
[Confidential]	[Confidential]	[Confidential]
[Confidential]	[Confidential]	[Confidential]
[Confidential]	[Confidential]	[Confidential]